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# HOUSE BILL No. 1563

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2; IC 12-14-29; IC 12-15-2-23.

**Synopsis:** Drug testing for public assistance. Requires the division of family and children to develop a drug abuse testing program for applicants and recipients of assistance under the federal Temporary Assistance for Needy Families (TANF) program. Provides that: (1) an individual who tests positive for a controlled substance or a legend drug without a prescription is ineligible to receive TANF assistance; and (2) an individual who is ineligible for TANF assistance for testing positive for drug abuse is ineligible for assistance under the Medicaid program. Requires the office of Medicaid policy and planning to apply for an amendment to the state Medicaid plan to limit Medicaid eligibility for individuals who are ineligible under the TANF program for testing positive for drug abuse.

**Effective:** Upon passage; July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1563

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 12-7-2-72 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 72. "Drug abuse", for  
3       purposes of **IC 12-14-29** and IC 12-23, means:

4               (1) psychological or physical dependence on the effect of drugs  
5               or harmful substances; or  
6               (2) abuse of the use of drugs or harmful substances;  
7       that is harmful to the individual or society.

8       SECTION 2. IC 12-7-2-189.8 IS ADDED TO THE INDIANA  
9       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10      [EFFECTIVE JULY 1, 2005]: **Sec. 189.8. "TANF program", for**  
11      **purposes of IC 12-14-29, has the meaning set forth in**  
12      **IC 12-14-29-1.**

13      SECTION 3. IC 12-14-29 IS ADDED TO THE INDIANA CODE  
14      AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
15      JULY 1, 2005]:

16      **Chapter 29. Drug Testing Under Temporary Assistance for**  
17      **Needy Families Program**



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1       **Sec. 1. As used in this chapter, "TANF program" refers to the**  
 2       **federal Temporary Assistance for Needy Families program under**  
 3       **42 U.S.C. 601 et seq.**

4       **Sec. 2. This chapter applies to the following:**

5       **(1) Each individual eligible for assistance under the TANF**  
 6       **program who:**

7           **(A) is at least eighteen (18) years of age; and**

8           **(B) applies for or receives assistance under the TANF**  
 9           **program.**

10       **(2) Each individual in the family unit of an individual**  
 11       **described in subdivision (1) who:**

12           **(A) is at least eighteen (18) years of age; and**

13           **(B) seeks to receive assistance under the TANF program.**

14       **Sec. 3. (a) The division shall establish a random drug abuse**  
 15       **testing program, participation in which is a condition for**  
 16       **individuals applying for or receiving assistance under the TANF**  
 17       **program.**

18       **(b) The division shall develop and implement a drug abuse**  
 19       **testing program under this chapter that includes the following:**

20           **(1) Beginning July 1, 2005, testing of randomly selected**  
 21           **individuals under the TANF program.**

22           **(2) A urinalysis test.**

23           **(3) An appeals process for individuals.**

24       **(c) A county office may administer additional drug tests to an**  
 25       **individual who is eligible for assistance under the TANF program**  
 26       **if the individual:**

27           **(1) is arrested or indicted on charges involving the illegal use**  
 28           **of a controlled substance;**

29           **(2) is under investigation by the county office or a prosecuting**  
 30           **attorney's office for alleged child abuse or neglect;**

31           **(3) commits an act or omission that is grounds for revoking**  
 32           **the individual's assistance under the TANF program**  
 33           **according to a rule adopted by the division under IC 4-22-2;**  
 34           **or**

35           **(4) has tested positive for drug abuse under this chapter.**

36       **Sec. 4. (a) If an individual who is tested for drugs under this**  
 37       **chapter:**

38           **(1) tests positive for the presence in the individual's body of a:**

39           **(A) controlled substance (as defined in IC 35-48-1-9); or**

40           **(B) legend drug (as defined in IC 16-18-2-199); and**

41           **(2) does not possess a valid prescription for the controlled**  
 42           **substance or legend drug;**

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the individual is ineligible to receive assistance under the TANF program.

(b) An individual who refuses to take a drug test required under this chapter without good cause is ineligible to receive assistance under the TANF program.

Sec. 5. An individual tested under this chapter is not considered to have tested positive for the presence of a controlled substance or legend drug in the individual's body until the sample obtained from the original test has been retested to rule out a false positive by:

- (1) gas chromatography with mass spectrometry;
- (2) gas chromatography;
- (3) high performance liquid chromatography; or
- (4) an equal or more specific test.

Sec. 6. An individual who is ineligible to receive assistance under section 4 of this chapter may reapply for assistance under the TANF program on the earlier of:

- (1) six (6) months after the date the individual tested positive for drugs under this chapter; or
- (2) the date the individual complies with and completes a drug abuse assessment or treatment plan.

Sec. 7. A dependent child's eligibility for assistance under the TANF program is not affected by this chapter.

Sec. 8. A county office may contract with a private or public entity or an individual to perform the drug tests required under this chapter.

Sec. 9. The division may adopt rules under IC 4-22-2 necessary to implement this chapter.

SECTION 4. IC 12-15-2-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. A person who is ineligible for public assistance as described in IC 12-14-29 is ineligible to receive Medicaid assistance under this article.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) Before July 1, 2005, the office shall apply to the United States Department of Health and Human Services for approval to amend the state Medicaid plan to limit eligibility for individuals who are ineligible for public assistance under IC 12-14-29, as added by this act.

(c) The office may not implement the amendment to the state Medicaid plan until the office files an affidavit with the governor

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1 attesting that the amendment applied for under this SECTION is  
2 in effect. The office shall file the affidavit under this subsection not  
3 later than five (5) days after the office is notified that the  
4 amendment is approved.

5 (d) If the office receives approval to amend the state Medicaid  
6 plan under this SECTION from the United States Department of  
7 Health and Human Services and the governor receives the affidavit  
8 filed under subsection (c), the office shall implement the  
9 amendment not later than five (5) days after the governor receives  
10 the affidavit.

11 (e) This SECTION expires December 31, 2009.

12 SECTION 6. An emergency is declared for this act.

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